

108TH CONGRESS
1ST SESSION

S. 936

To amend the Internal Revenue Code of 1986 to deny any deduction for certain fines, penalties, and other amounts.

IN THE SENATE OF THE UNITED STATES

APRIL 29, 2003

Mr. BAUCUS (for himself, Mr. GRASSLEY, and Mr. MCCAIN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to deny any deduction for certain fines, penalties, and other amounts.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Government Settle-
5 ment Transparency Act of 2003”.

6 **SEC. 2. DENIAL OF DEDUCTION FOR CERTAIN FINES, PEN-**
7 **ALTIES, AND OTHER AMOUNTS.**

8 (a) IN GENERAL.—Subsection (f) of section 162 of
9 the Internal Revenue Code of 1986 (relating to trade or
10 business expenses) is amended to read as follows:

1 “(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

2 “(1) IN GENERAL.—Except as provided in para-
 3 graph (2), no deduction otherwise allowable shall be
 4 allowed under this chapter for any amount paid or
 5 incurred (whether by suit, agreement, or otherwise)
 6 to, or at the direction of, a government in relation
 7 to the violation of any law or the investigation or in-
 8 quiry into the potential violation of any law.

9 “(2) EXCEPTION FOR AMOUNTS CONSTITUTING
 10 RESTITUTION.—Paragraph (1) shall not apply to
 11 any amount which the taxpayer establishes con-
 12 stitutes restitution for damage or harm caused by
 13 the violation of any law or the potential violation of
 14 any law. This paragraph shall not apply to any
 15 amount paid or incurred as reimbursement to the
 16 government for the costs of any investigation or liti-
 17 gation.

18 “(3) TREATMENT OF CERTAIN NONGOVERN-
 19 MENTAL REGULATORY ENTITIES.—For purposes of
 20 paragraph (1), amounts paid or incurred to, or at
 21 the direction of, the following nongovernmental enti-
 22 ties shall be treated as amounts paid or incurred to,
 23 or at the direction of, a government:

24 “(A) Any nongovernmental entity which
 25 exercises self-regulatory powers (including im-

1 posing sanctions) in connection with a qualified
2 board or exchange (as defined in section
3 1256(g)(7)).

4 “(B) To the extent provided in regulations,
5 any nongovernmental entity which exercises
6 self-regulatory powers (including imposing sanc-
7 tions) as part of performing an essential gov-
8 ernmental function.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to amounts paid or incurred after
11 April 27, 2003, except that such amendment shall not
12 apply to amounts paid or incurred under any binding
13 order or agreement entered into on or before April 27,
14 2003. Such exception shall not apply to an order or agree-
15 ment requiring court approval unless the approval was ob-
16 tained on or before April 27, 2003.

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